

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion No. 97-23, Request No. 730
Issued December 11, 1997**

Facts:

The inquiring attorney represented a client who is now a candidate for the Rhode Island Bar. According to the inquiring attorney, the client defaulted on his/her obligations to pay the inquiring attorney's fee under a written fee agreement.

Issue Presented:

The inquiring attorney asks whether it is a violation of Rule 1.6 to notify the Committee on Character and Fitness that the client defaulted on his/her obligations to pay.

Opinion:

Yes. A client's failure to pay a lawyer's fee is information relating to the representation, and may not be disclosed without the client's consent.

Reasoning:

Rule 1.6 states:

- (a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).
- (b) A lawyer may, but is not obligated to, reveal such information to the extent the lawyer reasonably believes necessary:
 - (1) to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm; or
 - (2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceed-

ing concerning the lawyer's representation of the client.

A client's failure to pay a lawyer's fee is information relating to the representation and disclosure of that fact would be a breach of the inquiring attorney's obligation of confidentiality, unless authorized by law or unless the exceptions provided in paragraph (b) apply. This Panel has interpreted the obligation imposed by Rule 1.6 broadly. See R.I. Sup. Ct. Ethics Advisory Panel 95-61 (identity of client is confidential information and firm may not disclose to agency list of accounts receivable which included client names); R. I. Sup. Ct. Ethics Advisory Panel 94-42 (lawyer may not disclose to bank that gave line of credit a list of accounts receivable because names and addresses of clients are protected by Rule 1.6.) The Panel believes that its broad interpretation of the Rule is consistent with the Rhode Island Supreme Court's ruling in In Re Ethics Advisory Panel No. 92-1, 627 A.2d 317 (R.I. 1993). In that case, the Court held that a lawyer's duty of confidentiality to his clients superseded the lawyer's obligation to report another attorney's misconduct, where the lawyer had learned during the course of the representation that the other attorney had embezzled the clients' funds, and the clients would not consent to disclosure. Id.

Disclosure of the information to the Committee on Character and Fitness for the purposes intended by the inquiring attorney is not permitted by Rule 1.6 (b)(2). The inquiring attorney is neither establishing a claim or defense on his/her own behalf, nor responding to allegations in a proceeding concerning his/her representation of the client. See Rule 1.6(b)(2). The Panel therefore concludes that notice to the Committee that his/her client, a candidate for the Rhode Island Bar, failed to make payments of an attorney's fee would be a violation of the inquiring attorney's obligation of confidentiality imposed by Rule 1.6.